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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,683	07/31/2001	Craig H. Barratt	15685P042	6227
8791	7590	06/08/2004	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025			VANDERPUYE, KENNETH N	
			ART UNIT	PAPER NUMBER
			2661	
			DATE MAILED: 06/08/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/919,683

**Applicant(s)**

BARRATT ET AL.

**Examiner**

Kenneth N Vanderpuye

**Art Unit**

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 13-33 and 37-51 is/are rejected.
- 7) ☒ Claim(s) 7-12 and 34-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. Claims 40-51 are instructions that cause a machine to perform functions. Claims 40-51 are non statutory because they are considered functional descriptive material. We functional descriptive material is recorded on a computer readable medium it becomes structurally and functionally interrelated to the medium and is statutory. Hence the instruction must be recorded on a computer readable medium in order to be statutory.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verdonk (6,332,075) in view of Ziegler(6,711,151)

With regards to claim 1, 4, Verdonk teaches a method for transmitting a data stream between a base station and user terminal comprising:

selecting at the base station a first radio resource to transmit a page, transmitting the page from the base station via the first RF resource(Fig. 4A@412, page mobile unit via BTS), receiving the page from the base station via the first RF resource (Fig. 4A@412), ...transmitting that data stream between the base station and use terminal via a second RF resource(Fig. 4B@426). What Verdonk fails to teach is selecting at the user terminal a resource to transmit a page response, the resource comprising a sequence of radio frequency resources that follow a hopping sequence, transmitting the page response from the user terminal via the resource in response to the page. Verdonk sends a page response(Fig. 4A@414) but without using a hopping sequence. Ziegler teaches sending a page response message on frequency hopping channels(col. 2 lines 40-45, both base station and mobile must know the frequency hopping sequence). It would have been obvious to one of ordinary skill in the art to combine Ziegler with Verdonk for the purpose of employing frequency hopping sequence in the page response. The motivation being to prevent jamming or interference.

Claim 2-3 are rejected as being inherently taught by Verdonk because the RF resource has to be available if it is used transmit a page.

With regards to claim 5-6, Ziegler teaches time slot hopping And code hopping as well(col. 5 lines 19-25). It would have been obvious to combine Ziegler with Verdonk for the same reasons as stated above.

Claims 13-15 are rejected as being inherently taught by Verdonk because an identifier assigned to the user terminal from the base station must be included in the page in order for the receiving mobile to determined that it is the intended recipient of the page. The identifier has to match that of the mobile in order for a response to be generated.

Claims 16-17, 18-33, 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verdonk in view of Ziegler as applied to claims 1-6, 13-15 above, and further in view of Lee(6,181,945).

With regards to claim 16 neither Verdonk or Ziegler teaches the base station acknowledging the page response. The is taught by Lee(col. 2 lines 27). It would have been obvious to one of ordinary skill in the art to combine Lee with Verdonk and Ziegler for the purpose of acknowledging the page response. The motivation being to inform the mobile that the page response has been received.

With regards to claim 17, Lee teaches send information regarding the frequency that the mobile should use for voice communication as well a the page response ack. Piggybacking is a process where a message intended for a recipient is attached to an acknowledgement packet. This saves having to send two separate messages i.e. the acknowledgement packet and the message. The concept of piggybacking is well know in the art. It would have been obvious to one of ordinary skill in the art to combine this well known art with Lee, Verdonk and Ziegler for the purpose of piggybacking a page response message. The motivation is to save bandwidth.

Claim 18 is rejected for the same reasons as 1 and 16.

Claim 19 is rejected for the same reasons as claim 17

Claim 21 is rejected because although Verdonk fails to teach the call being serviced(Fig. 4B@426) using frequency hopping, Ziegler teaches frequency hopping not just for paging but for communicating. It would have been obvious to to combine Verdonk Lee and Ziegler for the purpose of employing frequency hopping transmission. The motivation being to avoid jamming.

Claim 22 is rejected for the same reasons as claim 2.

With regards to claims 23-24, Verdonk, Lee and Ziegler fails to teach this feature however this is rejected because the choice of the same or a different hopping sequence is obvious as a matter of design choice.

Claim 25 is rejected for the same reasons as claim 13.

Claim 26 is rejected for the same reasons as claims 4-6.

Claim 27 is rejected for the same reasons as claim 1 and 16.

Claim 28 is rejected for the same reasons as claim 17.

Claim 29 is rejected for the same reasons as claim 21.

Claim 30 is rejected for the same reasons as claims 4-6.

Claim 31 is rejected for the same reasons as claim 2.

Claims 32-33 are rejected for the same reasons as claims 23-24.

Claims 37-39 are rejected for the same reasons as claims 13-15.

Claim 40 is rejected for the same reasons as claim 18

***Allowable Subject Matter***

Claims 7-12, 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth N Vanderpuye whose

telephone number is 703-308-7828. The examiner can normally be reached on M-F(7:30-5:00) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KNV  
5-31-04



KENNETH VANDERPUYE  
PRIMARY EXAMINER